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Safe Harbor Project: Good News in Court and in the Asylum Office

There hadn't been much news from the Safe Harbor Project in a while. As a result of the influx of cases from families and children crossing the Southern border, both the asylum offices and the immigration courts are experiencing multi-year backlogs. Many of our cases (and our clients) have been in limbo. Happily, one case was resolved this semester. Under Dan Smulian's supervision, Kyla Burke-Lazarus '17, Travis Marmara '17 and 2016 graduate, Charli Cleland, worked diligently on behalf of their client since fall 2015. In Immigration Court, their efforts paid off for their client, a Central American asylum seeker and her children. The client had fled over a decade of severe domestic violence and control by the father of her children. Despite many hours of preparation to testify, the client was extremely frightened by the prospect of questioning in immigration court. However, she only had to answer cursory security questions because the government stipulated to asylum after reviewing the exceptional evidentiary package and brief produced by the students.

Another long pending matter was concluded with a happy result in the Newark Asylum Office in December. The clinic client, a prominent anti-Putin dissident, fled Russia after being jailed in a bogus criminal proceeding. As an active blogger and author of reports relating to the corruption of the Putin regime, he was a target for government retaliation. After he and his wife fled, his long-time mentor and writing associate, a prominent dissident, was assassinated in the shadow of the Kremlin in a highly public crime that ultimately went unvindicated, he applied for asylum in the US where he continued his writing and speaking. Three clinic students had worked on the case during the fall '15 semester, Binyamin Bindet '16, Suzanna Talbot '17 and Tanvee Trehan '17. They prepared extensive supporting materials, figuring out a creative way to present the hours of YouTube recordings made by their client. The team also included Ayshe Mazinova, LL.M. '16, who worked for the past two years as the interpreter. Both Ben and Ayshe came back to BLS at 6 am to travel to the interview in NJ.

Newest BLS Clinic Blasts Off

Under the leadership of Prof. Susan Hazeldean, The LGBT Advocacy clinic got off to a great start in its first semester working on a wide range of cases and causes in diverse courts! Clinic students Lindsay Javitz '18 and Rachel Goldstein '18 helped a lesbian couple file a second parent adoption petition in Kings County Family Court so that both mothers can have a legally secure relationship with their newborn daughter. Another student team represented a transgender woman who was raped in a maximum security men's prison after corrections officers failed to protect her from a fellow inmate. Jon Heiden '17 and Caitlin Bassett '18 filed a brief opposing a motion to dismiss filed by the defendant corrections officers. Lindsay Javitz '18 and Rachel Goldstein '18 also helped a young homeless woman filing for divorce from her abusive wife. Clinic students Jake Lavelle '18 and Will Stanton '18 assisted an African man applying for asylum in the U.S. to escape a lifetime of anti-gay violence at the hands of his family, community members, and the Nigerian police. Finally, student team Blair Llamendola '17 and Michael Lupton '18 took on a case against a New York City corrections officer who subjected a transgender woman to homophobic abuse and assault at Rikers Island. On January 19, Michael Lupton will argue before U.S. District Judge Robert Sweet in the Southern District of New York on behalf of his client regarding her federal civil rights case against the City and the corrections officer.

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The Annual Disability Law Breakfast Roundtable Complements Work of Clinic

The Disability and Civil Rights Clinic hosted its [annual breakfast](#) roundtable on November 18. More than 50 people attended and broke into six discussion groups: Office for Persons with Developmental Disabilities (OPWDD) and community integration; relationships and sexuality; special education; criminal justice; 17-A Guardianship and supported decision making; and right to family. The Roundtable, which gathers people from legal, social services and community organizations, was organized by Prof. Natalie Chin and Prof. Amy Mulzer. The Clinic is funded by a generous grant from the Taft Foundation.



Students in the Disability and Civil Rights Clinic have been extremely productive working on a wide range of activities:

- Mike Pecorini '17 and Pinny Gold '17 represented a husband and wife in a Supreme Court proceeding to remove their Article 81 guardianship. Mr. and Mrs. D. have been subject to guardianship for over twenty years. The guardian, a non-profit organization contracted by the City of New York to act as guardian to low-income persons, allowed Mr. and Mrs. D. to live in squalid conditions for 15 years, mistakenly discontinued their SNAP benefits, and treated them with disrespect and disdain in personal interactions. Through the course of the Fall semester, the students gathered evidence to establish that guardianship was no longer necessary. They conducted extensive fact investigation, interviewing and addressed collateral issues related to the case, including securing the D's SNAP benefits. Mike and Pinny maintained their dedication to the case and continued to represent the Ds after the conclusion of their semester term in the Clinic. During the summer of 2016 (while both students worked full-time at their summer internships), the students filed the Ds' petition to discharge the guardian and prepared their clients for the Supreme Court hearing.

Due to the students' preparation, the attorney for the guardian agreed to settle the case. The Ds' legal rights to make decisions about their life, where to live, with whom to socialize and other personal matters were reinstated by the court through the settlement. Following the settlement hearing, Mrs. D. said to the students, "I finally feel free again."

- Erin Burns '17 and Ryan Licciardello '17 represented Ms. W., a 26-year-old woman diagnosed with a mild intellectual disability and cerebral palsy. When the students first received the case, Ms. W. resided in a supervised group home in central New York. Since at least 2013, the group home and agency where Ms. W. receives publicly funded services had arbitrarily denied Ms. W. the right to engage in consensual sexual activity, failed to provide her with timely sexual consent education and refused to reassess her ability to consent to sexual activity. Ms. W. frequently experienced abuse at the hands of other service recipients at the group home and made the group home staff aware of this abuse on many occasions. Ms. W. also attended a day habilitation program where she worked in a sheltered workshop, and did not reside in the most integrated setting as required under the Americans with Disabilities Act.

As a result of the students' advocacy, Ms. W. was given a sexual consent assessment in early June 2016 by an independent professional. She was deemed consenting and, for the first time in 3 years, regained her sexual autonomy. The students' work also played a critical role in the relocation of Ms. W. into a shared private residence of her choosing that is located in the community. Ms. W. is no longer under the watchful and discriminatory eye of the group home and lives independently in the community with supportive services.

- The Clinic filed an amicus brief before the New York Supreme Court, Appellate Division, Second Judicial Department, in support of a Family Court decision that reinforced the right of parents with intellectual disabilities to receive tailored supportive services to accommodate their disability in compliance with the Americans with Disabilities Act (ADA). Brooklyn Defender Services, Family Defense Practice, defended the appeal against the NYC Administration for Children's Services (ACS) and asked the Clinic to participate as amicus. Shortly after the Clinic submitted its brief outlining the history of pervasive discrimination against parents with intellectual disabilities and the applicability of the ADA to the Appellant, ACS withdrew its challenge to the lower court's application of the ADA.

- The Clinic represented Mr. H. in an administrative fair hearing against the NYC Human Resources Administration (“HRA”). For over a decade, HRA incorrectly budgeted Mr. H’s monthly income for Medicaid eligibility. As a result, HRA wrongly deducted money from his Social Security income for over 10 years. The case settled after the HRA and the State Department of Health reimbursed Mr. H. nearly \$20,000.

Urban Economic Development Clinic Preserves 121 Units of Affordable Housing for Decades In Williamsburg

Low-income residents in Williamsburg, Brooklyn, have certainty that their landlord won’t pull out of the HUD Section 8 rental program anytime soon. The tenants, represented by the BLS Urban Economic Development Clinic, recently entered into a binding contract that will, among other things, keep the 121 units affordable in what is now a rapidly gentrifying neighborhood.

The agreement, called a “community benefits agreement,” binds the landlord to certain commitments, including remaining in the HUD Section 8 program, upgrading tenant laundry facilities and common areas, providing bilingual notices, and ensuring tenant access to meeting spaces. Many of the residents have lived in the development, known as Caribe Gardens, since it was constructed in the late 1980s. A number are monolingual Spanish speakers.

Tenants had the opportunity to enter into the agreement when their landlord approached them with a plan to develop two parking lots on the site. The tenants agreed not to oppose the development in exchange for the benefits the landlord and the new developer agreed to provide.

Nine BLS clinic students worked on, or are currently working on, the project, which is ongoing, over three terms. The students, Chris Antonelli '17, Michael Martens '16, Adeneiki Williams '16, Sali Salfiti '16, Chase MacLeod '17, Jason Cohen '16, Omar Mustafa '16, Dylan Cascino '16, and Nicole Guitelman '17 took the agreement from a term sheet, to a negotiated draft agreement, finally to an execution draft, and are now working with the tenants to ensure specific performance of the terms.

The new developments were subsequently approved by the New York City Council over the summer and include requirements to provide over 27% affordable residential housing. Attorneys’ fees generated from the project were contributed to the BLSPI Madow Bar Grant program that supports public interest students studying for the bar exam. For more information about applying for a bar grant, click [here](#).

Helping Elders Through Law and Policy (HELP) Clinic

HELP Clinic students were busy connecting with legal and medical communities. An article written by Emily Bensco (HELP Clinic student in Spring '16) was published in [NYSBA Perspective Magazine](#), along with articles by two other students from elder law clinics from University of Memphis Cecil C. Humphreys School of Law and the University of Illinois College of Law.

Mark Creedon, Fall '16, presented to the New York Academy of Medicine on suggested ways to improve building accommodations and environment for older adult litigants who go to the Help Center in Brooklyn Housing Court. Kayla Barger, Fall '16, prepared two documents that will be distributed about scam awareness and prevention to the Senior Lawyer’s Division of the American Bar Association. Desiree Jamasbi, Fall '16, presented to the Brooklyn Multi-Disciplinary Elder Abuse Prevention Team on the Power of Attorney.

A Busy Partner Involves BLS Students in All Aspects of Work

A year ago, The Children’s Law Center was one of the lead sponsors of a symposium entitled Beyond Permanency: Challenges for Former Foster Youth. The symposium examined and highlighted the difficulties that a number of our youth face after exiting the foster care system for adoption. Together, participants explored the hardships of broken adoptions, loss of contact between siblings after their parent’s rights have been terminated, and adoption subsidy misuse, all with the goal of creating policy and practice solutions to address these pressing issues.



At the close of the symposium, each attendee was given a call to action: change just one area of your practice or policy approach to make a positive impact on a young person who has suffered one, or all, of these post-permanency challenges.

The CLS embarked on a series of projects, all of which involved BLS students.

- CLC launched a HELPLINE for youth who have experienced a Broken Adoption. Young people, professionals, and biological and adoptive families have been contacting the HELPLINE for information and assistance.
- The NYC Administration for Children's Services Advocacy Office has been a portal for youth under the age of 21 who have experienced a broken adoption to communicate with the adoptive parents in whose homes they no longer live.
- Youth pursued justice through Family Court. Several young people under 21 have successfully filed child support petitions against adoptive parents who continued to receive the adoption subsidy despite no longer providing their adopted children with care or support. A participant in the symposium's Voice youth panel is one such young person. [Please review the judge's decision granting his petition.](#)
- Symposium sponsors and participants, including youths, drafted the Beyond Permanency digital journal, which will launch within the month.
- Several attendees from jurisdictions outside New York, including those from Delaware returned home and conducted reviews of outcomes for youth who did not remain with their adoptive families.
- A member of the symposium's Voice youth panel presented his policy proposals regarding the adoption subsidy to staff from the Office of the President of the United States. This panelist's innovative work was reviewed [in the Chronicle of Social Change.](#)

The Very Busy Securities Arbitration Clinic Is Back

After a year hiatus, the nine students in the Clinic, supervised by Labaton Sucharow partners, Mark Arisohn and Joel Bernstein '75, this year are working hard on four interesting new cases involving:



1. The unauthorized sale of a bond causing our client damages
2. The improper use of margin lending to our client who suffered damages as a result
3. The improper liquidation of our client's account after putting her account on margin that was neither requested nor applied for causing her to suffer losses
4. The failure of an IRA custodian to recognize unusual activity in our elderly client's account whereby she withdrew her funds in order to invest with a scammer she met on a dating web site.

Statements of Claim in the first three cases above are likely to be filed with FINRA before the end of the year. The fourth case, involving the dating web site scam, is a very sad story and an especially compelling case that will require creative lawyering if the Clinic is to recover any of the money lost by the client. The client, a retired widow, was scammed out of her life savings. She held in an IRA account by someone she "met" on an online dating service. She transferred several hundred thousand dollars out of her IRA account and send it as instructed by this potential boyfriend who she never actually met in person and who eventually disappeared. The client went to the FBI but the FBI is unlikely to help her recover any money. The Clinic students are looking for potential claims that can be brought against the financial advisors who held her IRA funds. Stay tuned.

Corporate and Real Estate Clinic: Deals Worth Millions

Eight Corporate and Real Estate Clinic students under the supervision of Professor Debbie Bechtel, the clinic's founder and director, furthered the clinic's effort to preserve affordable housing units by representing ten low-income cooperatives with over a hundred units this semester. All four teams of two students closed loans this semester for a total of \$1.75

million dollars. The money was used to pay real estate taxes, water and sewer charges and various liens in order to financially stabilize the buildings. Students worked from September to December obtaining consents and subordinations from City agencies, negotiating loan documents with the lender attorney, gathering and reviewing leases and corporate documents, resolving title issues, drafting opinion letters and meeting with clients to explain the process.

One 48-unit Manhattan building posed particular challenges. A corporate officer consulted Professor Bechtel last spring when a corrupt manager and several board members sought to remove her from the board. With legal advice to embolden her, she preserved her position on the board and gathered enough shareholder votes to oust the manager and to elect new board members.

The new board obtained a commitment for a \$900,000 loan to pay tax arrears amassed by the prior leaders and to begin façade repairs. The clinic's financial analysis a few weeks before closing led the board to realize that \$900,000 would not be enough to resolve every title issue. Accordingly, the students-- Akeem Benn '18 and Matthew Mummert '18 - negotiated a water tax reduction arrangement and an escrow agreement with the title company and then delayed the closing so the co-op could sell a unit to access additional funds.

In addition to their loan closing, students Alissa Cardillo '17 and Sebastian Poplawski '17 completed a unit closing which allowed a disabled shareholder/officer to move to a lower floor in the building as well as to obtain a loan to pay for the larger apartment over time. The other two teams handling loan closings were: Simone Grey '18/Charles Franchini '17 and Charles Huynh '17/Anna Mikaelyan '18.



*Standing: Sebastian Polawski '17 Charles Huynh '17, Ana Mikaelyan '18, Simone Grey '18
Sitting: Charles Franchini '17, Alissa Cardillo '17, Matthew Mummert '18, Akeem Benn '18*

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